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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,793	03/23/2005	Toru Miyano	MTS-3553US	6226
53473	7590	01/29/2010		
RATNERPRESTIA P.O. BOX 980 VALLEY FORGE, PA 19482			EXAMINER ADEGEYE, OLUWASEUN	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 01/20/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/528,793

**Applicant(s)**

MIYANO, TORU

**Examiner**

OLUWASEUN A. ADEGEYE

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03/23/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/23/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI.08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Nov. 11, 2009 has been entered.

### ***Response to Arguments***

1. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choi (US 6, 985,191 B2) in view of Lee (US 2003/0163746).

As to **claim 1**, Choi discloses a disk apparatus comprising:

a disk section (50) of recording and/or reproducing at least one of video, audio

or data (see column 5, lines 41 – 48)

a processing section (10) of processing at least one of said video, audio or data (see column 5, lines 49 – 54)

a disk start controller (55) which controls said disk section and said processing section (see column 5, lines 55 – 64)

a disk start mode setting section (80) of setting either one of a disk start disabling mode (power saving mode) of disabling the start of said disk section or a disk start enabling mode (normal mode) of enabling the start of said disk section (see column 6, lines 4 – 11 and lines 48 – 58), and

a storage section (53) of storing either one of the disk start disabling mode or the disk start enabling mode which is set by said disk start mode setting section (see column 2, lines 52 – 58 and column 5, lines 55 – 64), wherein

at a time when power ON operation is carried out, in the case (1) when said storage section stores said disk start disabling mode, said disk start controller carries out control so as to apply power to said processing section without applying power to said disk section, and in the case (2) when said storage section stores said disk start enabling mode, said disk start controller carries out control so as to apply power to said disk section and said processing section.

The Choi reference discloses 2 modes. The first is the normal mode whereas the second is the power saving mode. The examiner believes that the normal mode is equivalent to the enabling mode of the present invention since in the normal mode, power is applied to both the disk section and the processing section (see column 7,

lines 9 - 19). The examiner interprets the power saving mode of Choi to be the disabling mode (see column 7, lines 14 – 25 and lines 48 – 52). The examiner believes that there is a slight difference between the disabling mode of Choi and that of the present invention. The examiner believes that the disabling mode of Choi shuts off power to both the disk section and the processing section unlike the present invention that only shuts power off to the disk section.

Lee on the other hand also discloses two modes, the power down mode and the idle mode. The Lee reference discloses a power down mode which is similar to the disabling mode of the present invention because in the power down mode, power to the disk section is turned off whereas there is still some power in the processing section (see [005] and [018]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the power down mode of Lee to the apparatus of Choi to provide an apparatus capable of optimizing power consumption (see [002]).

**As to claim 2**, Choi discloses a disk apparatus in accordance with claim 1, wherein said disk start mode setting section is set in said disk start disabling mode in a production shipment stage (see fig. 3).

**As to claim 3**, Choi discloses a disk apparatus in accordance with claim 1, wherein said disk section is a hard disk (50) carry out recording and/or reproduction on magnetic disk media (see column 5, lines 24 – 33).

**As to claim 4**, Choi discloses a disk apparatus in accordance with claim 3, wherein a safety zone of said hard disk is present on said magnetic disk media (see

column 5, lines 24 – 33) .

**As to claim 5**, Choi discloses a disk apparatus in accordance with claim 1, wherein said processing section is a tuner (30) to receive broadcasting (see column 5, lines 41 – 48) .

**As to claim 6**, Choi discloses r disk apparatus in accordance with claim 3, wherein:

the disk apparatus serves as a recorder equipped with a hard disk (50) (see column 5, lines 16 – 32); and

said processing section is a tuner (30) receiving broadcasting (see column 5, lines 16 – 32).

**As to claim 7**, Choi discloses a disk apparatus in accordance with claim 3, wherein:

the disk apparatus serves as a DVD recorder equipped with a hard disk(see column 5, lines 16 – 32). and,

said processing section is (1) a tuner receiving broadcasting and (2) an optical disk section recording and/or reproducing said broadcasting received on an optical disk (see column 5, lines 16 – 32 and column 8, lines 51 - 58).

**As to claims 8 – 11**, grounds for rejecting claim 1 apply to claims 8 - 11 in its entirety.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUWASEUN A. ADEGEYE whose telephone number is (571)270-1711. The examiner can normally be reached on Monday - Friday 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

01/13/2010

/O.A/

Application/Control Number: 10/528,793

Page 7

Art Unit: 2621

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621